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[Proposed] Co-Lead Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

IN RE APPLE INC. STOCKHOLDER
 DERIVATIVE LITIGATION

This Document Relates To:

ALL ACTIONS.

) Lead Case No. 4:19-cv-05153-YGR
)
) (Consolidated with Cases No. 4:19-cv-05863-
) YGR, 4:19-cv-05881-YGR, and 4:19-cv-
) 08246-YGR)
)
) DECLARATION OF JUSTIN A. KUEHN IN
) SUPPORT OF MOTION OF PLAINTIFFS
) TERRENCE ZEHRER, ANDREW FINE,
) TAMMY FEDERMAN SEP/IRA, AND THE
) ROSENFELD FAMILY FOUNDATION TO
) APPOINT ROBBINS LLP AND
) WEISSLAU LLP CO-LEAD COUNSEL

DECL. OF JUSTIN A. KUEHN IN SUPPORT OF MOT. OF PLAINTIFFS TERRENCE ZEHRER,
 ANDREW FINE, TAMMY FEDERMAN SEP/IRA, AND THE ROSENFELD FAMILY
 FOUNDATION TO APPOINT ROBBINS LLP AND WEISSLAU LLP CO-LEAD COUNSEL

4:19-cv-05153-YGR

1 I, Justin A Kuehn, hereby declare as follows:

2 1. I am an attorney with the law firm Moore Kuehn, PLLC ("Moore Kuehn"), counsel for
3 plaintiff John Votto. I submit this declaration in support of Motion of Plaintiffs Terrence Zehrer, Andrew
4 Fine, Tammy Federman SEP/IRA, and The Rosenfeld Family Foundation to Appoint Robbins LLP and
5 WeissLaw LLP Co-Lead Counsel. I have knowledge of the matters stated herein and, should I be called
6 upon, I could and would competently testify thereto.

7 2. I have been practicing law for approximately thirteen years. Before starting my own firm
8 in 2017, for almost ten years, I was previously an attorney at New York-based Bragar Eigel & Squire,
9 P.C., where I represented shareholders and creditor trusts in securities and derivative actions against
10 companies, their officers, and boards of directors to compel the adoption of corporate governance reforms,
11 and correct and recover losses stemming from false statements, mismanagement, and related party
12 transactions. Thus, the primary focus of my practice has always been corporate and complex commercial
13 litigation as well as securities and consumer class actions.

14 3. My firm resume is attached hereto as Exhibit 1.

15 4. My client, stockholder-plaintiff John Votto, retained me in or around December 2019 to
16 represent him in connection with derivative claims on behalf of Apple Inc. ("Apple") arising out of the
17 so-called "Batterygate" disaster, in which Apple secretly distributed iPhone operating system updates that
18 dramatically slowed the performance of older iPhone models without the owner's knowledge or consent,
19 causing immense damage to Apple's reputation and significant exposure in consumer and securities class
20 actions.

21 5. Mr. Votto first purchased 350 shares of Apple stock on March 4, 2009, which he continues
22 to hold, and presently owns 500 shares. Relevant portions of Mr. Votto's March 2020 brokerage account
23 statement showing his current Apple ownership is attached hereto as Exhibit 2.

24 6. Mr. Votto and I support the appointment of Robbins LLP and WeissLaw LLP as co-lead
25 counsel in the consolidated action to ensure coherent leadership of the litigation for plaintiffs by counsel
26 with a long and strong track record of securing meaningful results in derivative shareholder litigation. The

27 - 1 -

28 DECL. OF JUSTIN A. KUEHN IN SUPPORT OF MOT. OF PLAINTIFFS TERRENCE ZEHRER,
ANDREW FINE, TAMMY FEDERMAN SEP/IRA, AND THE ROSENFELD FAMILY
FOUNDATION TO APPOINT ROBBINS LLP AND WEISSLAW LLP CO-LEAD COUNSEL

4:19-cv-05153-YGR

streamlined co-lead structure they propose will allow plaintiffs to coordinate their efforts, avoid duplication of effort, and, most importantly, to pursue the claims most effectively on Apple's behalf.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 14th day of April, 2020, at Port Jefferson, New York.

Dated: April 14, 2020



JUSTIN A. KUEHN

Counsel for Plaintiff John Votto

1445194

EXHIBIT 1

Moore Kuehn

FIRM RÉSUMÉ

Founded in January 2017, Moore Kuehn, PLLC, is a complex litigation law firm focusing on plaintiffs. Moore Kuehn has counsel trained at major international law firms with broad experience in a wide range of diverse subject matters including all aspects of civil litigation.

Moore Kuehn has strong, long standing connections and referral relationships with large law firms, experts, and consultants which provide the depth and experiences necessary to handle all aspects of any given case with the upmost skill and expertise. Our founding partners have decades of experience litigating securities class actions, derivative matters, and consumer rights class actions in various state and federal courts, and, at their prior firms have been involved in some of the most notable recoveries and cases of the past decade.

OUR PRACTICE

As a litigation specialty law firm, we handle a variety of matters. We deal with every aspect of a dispute in litigation from discovery through trial and appeal. The majority of the practice areas we handle can be summarized in the following categories:

- Class Actions, Securities and Derivative Litigation
- Commercial Litigation
- Personal Injury

A more substantive discussion of each of these areas follows. In order to provide a better picture of the range of matters that we handle, each description is followed by a short list illustrating some of the representative matters we have handled in that area.¹

Class Actions, Securities and Derivative Actions

We have a strong practice litigating claims on behalf of consumers. These matters include claims arising out of student loan servicing, consumer fraud, and other deceptive practices. Our attorneys are also knowledgeable about many issues affecting the public,

¹ Any case marked with an * indicates it was worked on by one of Moore Kuehn's founding partners at a firm they were employed at prior to the founding of Moore Kuehn.

Moore Kuehn

including loyalty programs, the Americans with Disabilities Act, and consumer forced arbitration.

We have a growing securities litigation practice, particularly notable given our recent founding and small size. We represent plaintiffs in securities fraud, mergers and acquisitions, and other cases involving alleged corporate mismanagement, instituting derivative or securities class actions.

Representative Matters

- ***Chery v. Conduent Education Services, LLC***, No. 1:18-cv-75 (N.D.N.Y. 2018). After successfully appealing under the Pennsylvania Right-to-Know Law, requiring the Pennsylvania Higher Education Assistance Agency to produce certain student loan records, we brought claims on behalf of a putative class against Conduent Education Services, LLC, *f/k/a* ACS (“ACS”), Access Group, Inc., and Access Funding 2015-1, LLC arising out of ACS’s failure to certify loans balances thereby thwarting Federal Direct Consolidation Loan Applications. We defeated defendants’ motion to dismiss the amended complaint. *See Chery v. Conduent Educ. Servs., LLC*, No. 1:18-CV-75, 2019 U.S. Dist. LEXIS 53463 (N.D.N.Y. Mar. 29, 2019). This matter is currently in complex discovery involving multiple motions to quash/compel.
- ***In re Activision Blizzard, Inc. Stockholders Litigation***, No. 8885 (Del. Ch. 2013).^{*} Derivative settlement on eve of trial for \$275 million, by far the largest monetary settlement in the history of the Court of Chancery and the largest cash derivative settlement in the country. In addition, settlement provided significant corporate governance benefits to stockholders.
- ***Sateriale v. R.J. Reynolds Tobacco Co.***, No. 09-8394 (C.D. Cal.).^{*} After the Ninth Circuit reversed the district court’s dismissal of the complaint, and the trial court subsequently denied R.J. Reynolds Tobacco Co.’s (“RJR”) motion for summary judgment, certified a California class and denied RJR’s motions to reconsider. A settlement agreement, approved by the Court, was reached whereupon RJR agreed to reopen the Camel Cash loyalty program for a period of six months, allowing participants of the program to each redeem up to 3,000 C-Notes in exchange for non-tobacco merchandise commensurate to the non-tobacco products offered by RJR during the lifetime of the program. The parties also agreed that RJR would pay plaintiffs’ attorneys’ fees and costs.
- ***Frederick J. Grede, not individually, but as Liquidation Trustee and Representative of the Estate of Sentinel Management Group, Inc. v. Cohen & Company Securities, LLC, et al.***^{*} Represented a broker-dealer specializing in hybrid securities. The Liquidation Trustee alleged CCS sold Sentinel securities that were unsuitable for Sentinel and that CCS violated Section 10(b) of the Exchange Act and Rule 10(b)5 and made claims of

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aiding and abetting, breach of fiduciary duty, unjust enrichment and fraudulent transfer.

- ***Hildebrand v. Dentsply International, Inc.***, No. 06-5439. (E.D. Pa. 2006).
Consumer class action representing putative class of dentists and periodontists asserting claims for breach of warranty and consumer fraud against major manufacturer of dental equipment.

Commercial Litigation

Our attorneys handle both plaintiff and defense work encompassing all aspects of commercial litigation in traditional forums and through alternate dispute resolution.

Representative Matters

- ***Manhattan Review v. Yun***, No. 14-4046 (2d. Cir. 2017). Represented entity appellee Manhattan Enterprise Group LLC (“MEG”) before the Second Circuit Court of Appeals in a matter concerning fee shifting under the Copyright and Lanham Acts. Moore Kuehn successfully argued and drafted responding brief for appeal regarding fee shifting standard under Lanham and Copyright Acts before U.S. Court of Appeals for the Second Circuit. *See Manhattan Review LLC v Yun*, 919 F.3d 149 (2d Cir. 2019).
- ***Vingt Communications Ltd. v. Sony Music Entertainment***, Case No. 18-cv-5327 (PKC) (S.D.N.Y. 2018). Defended third-party complaint filed against international musician in complex commercial dispute. Organized and participated in successful mediation in London, England involving parties from the U.S., Nigeria, and England.
- ***Sinay v. Schwartzman***, No. 17323/08 (Sup.Ct. Kings.Cnty. 2008). Represented defendant in a two-day traverse hearing ordered by the Appellate Division, Second Department. After the hearing it was held that defendant had not been properly served with process, resulting in a judgment of approximately \$300,000 being vacated.
- ***Meissner v. Yun***, No. 650913/2012 (Sup.Ct. Ny.Cnty. 2012). Represented entity counterclaimant in a complex partnership dispute.
- ***Louis Hopper v. Sooner Alarms***, FST-CV-16-5015925-S (Conn. Supr. Ct. 2016). Represented corporation to validate management election and establish certain member voting rights under Delaware Law.

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Personal Injury

Moore Kuehn focuses on all areas of personal injury litigation. Our personal injury cases can concern a wide range of facts and claims, including dangerous products, defective drugs, medical negligence, food contamination, unsafe work conditions, and automobile accidents.

Representative Matters

- ***Seo v. Gregory***, No. 712279/2017 (Sup.Ct. Qns.Cnty. 2017). Recovered full insurance policy limits of \$489,291.12 to resolve motor vehicle accident lawsuit. We also obtained a reversal of denial of no-fault coverage resulting in an additional \$50,000 of insurance coverage for our client.
- ***McGrath v. Landon***, No. FBT-cv-6066966-S (Conn. Supr. Ct. 2017). Recovered \$145,000 on behalf of two plaintiffs to resolve motor vehicle accident lawsuit.
- ***Bernshtein v. Chowdhury, et al.***, No. 190401744 (PA. Comm. Pl. Ct. 2019). Recovered fully insurance policy limits of \$150,000 on behalf of plaintiff to resolve moto resolve motor vehicle accident lawsuit.

OUR ATTORNEYS

Fletcher Moore

Mr. Moore focuses his litigation practice in securities, commercial, and personal injury. He has represented corporations and individuals in cases involving securities, director and officer liability, partnership disputes, consumer class actions, contract disputes, and permanent physical injuries.

Mr. Moore has handled cases in state and federal courts across Connecticut, New York, New Jersey, and Pennsylvania. He has also been extensively involved in pro bono matters representing multiple prisoners in federal civil rights actions and indigent tenants in housing court.

Mr. Moore has authored several legal articles on drug litigation, class actions and other topics of current interest, which have been published nationally in Linex Systems, Product Liability Law360, Health Lawyers Weekly, and HealthLaw360.

Before founding a law firm, Mr. Moore spent several years as an attorney with a large international law firm.

Mr. Moore is a 2009 graduate of New York Law School, and a 2004 graduate of the University of Connecticut.

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Mr. Moore is admitted in the State, Commonwealth, and Federal courts of Connecticut, New York, Pennsylvania, U.S. District Court for the Eastern District of Pennsylvania, U.S. District Court for the Southern District of New York, and the U.S. District Court for the District of Connecticut

Justin Kuehn

Mr. Kuehn has extensive experience in securities and consumer class actions, as well as, corporate and complex commercial litigation matters. Prior to co-founding Moore Kuehn, Mr. Kuehn spent the prior decade at top New York City litigation boutique Bragar, Eigel and Squire, P.C. where he focused on class action, shareholder, and D&O lawsuits to hold corporations and their agents responsible for securities law violations and breaches of fiduciary duties.

Mr. Kuehn has represented shareholders and creditor trusts in securities and derivative actions against companies, their officers, and boards of directors to compel the adoption of corporate governance reforms, and recover losses stemming from false statements, mismanagement, and related party transactions. Mr. Kuehn previously worked on a record-breaking case that led to the largest cash derivative settlement in the history of the Delaware Court of Chancery, the preeminent forum for shareholder derivative litigation.

Mr. Kuehn has also pursued claims on behalf of student loan borrowers against some of the largest banks and student loan servicers in the country for the mismanagement and erroneous servicing of loans. Mr. Kuehn's investigations into student loan servicers, received a broad spectrum of media coverage, including by ABC News. Mr. Kuehn also spoke about this case at the conference "Stacking the Debt: Consumer Rights in the Financial Marketplace," held at Russell Senate Office Building – U.S. Senate (honorary host: Senator Al Franken).

In addition to representing plaintiffs in securities and other class action litigation, Mr. Kuehn has defended companies and individuals in business tort matters with claims of defamation, misrepresentation, breach of contract, unjust enrichment, and employment law violations.

Mr. Kuehn is a 2007 graduate of The George Washington University Law School. He received a B.A. in Economics from Trinity College in 2004, where he was inducted into the Phi Gamma Mu Social Sciences Honor Society.

Mr. Kuehn is admitted in New York State, the United States District Courts of the Southern, Eastern, and Northern Districts of New York, and the Second Circuit Court of Appeals.

Randall Steketee (of counsel)

Mr. Steketee specializes in real estate, corporate law, and estate planning. Mr. Steketee regularly handles a variety of real estate and commercial transactions, including sale & purchase,

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condo / co-op conversion, real estate development and investment, joint venture agreements, landlord-tenant, and office/retail leasing. With over 15 years of real estate experience, Randall Steketee brings a unique and holistic approach to managing a transaction. With a background in tax lien foreclosure, and after spending many years in CMBS and RMBS, Randall Steketee spent several years representing large lending institutions including Wells Fargo and Chase, among others, in residential Real Estate transactions. With partners and colleagues in almost every sector of the real estate market, Randall Steketee is able to provide the very best advice and expertise.

Mr. Steketee also spent several years as a New York Stock Exchange market regulator.

Mr. Steketee is a 2009 graduate of New York Law School, and a 2004 graduate of Skidmore College.

Mr. Steketee is admitted in the states of New York and New Jersey.

EXHIBIT 2

JOHN J VOTTO &
BRENDA S VOTTO
JT TEN WROS

Statement Period: MARCH 1 - MARCH 31, 2020
Account Number: [REDACTED]

BAIRD

ASSET DETAILS

This section shows the cash, cash alternatives and/or securities in your account. It reflects market values as of the close of business, March 31, 2020. Any balances reflected in this section held in a bank deposit account or in shares of money market mutual funds may be liquidated on your order and the proceeds returned to your account or remitted to you. Please note, unrealized gain/loss is being prepared for informational purposes only and should not be used for tax preparation without the assistance of your tax advisor. Cumulative Investment Return on funds and unit investment trusts is provided for informational purposes only to assist you in comparing the total current value of your position with your total amount invested, excluding reinvestment activity. Cumulative Investment Return may be misstated if any cost information is inaccurate or if you have sold part of your position since your original investment.

CASH AND CASH ALTERNATIVES

CASH

FDIC INSURED DEPOSIT MULTI-BANK

Net yield from 03/01/20 - 03/31/20 was 0.02%.

Deposits are insured by the FDIC up to \$1,250,000 per depositor (or \$2,500,000 for joint accounts).

Program Banks

STATE STREET BANK & TRUST CO

Current Value [REDACTED]

Total Cash and Cash Alternatives

Current Value	Cost	Unrealized Gain/(-)Loss*	Anticipated Annualized Income	Current Yield %
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PORTFOLIO ASSETS

Stocks/Options

Symbol/CUSIP Bond Rating*	Quantity	Current Price	Average Unit Cost	Current Value	Cost	Unrealized Gain/(-)Loss*	Anticipated Annualized Income	Current Yield %
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APPLE INC
ACQUIRED: 03/04/2009
12/06/2018
03/05/2020

AAPL

500
350
50
100

254.2900
254.2900
254.2900
254.2900

86.8843
13.4214
176.5700
299.1613

127,145.00
89,001.50
12,714.50
25,429.00

43,442.13
4,697.50
8,828.50
29,916.13

83,702.87
84,304.00 (LT)
3,886.00 (LT)
-4,487.13 (ST)

1,540.00
1,078.00
154.00
308.00